EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with **John M. Guynn** (attorney of record) on January 30th 2009.

The application has been amended as follows:

Rejoinder of the Claims

Claims 1-3, 6-15, 28-31 and 33 are directed to an allowable product, a moisture activated implant device, method of making and using the same. Pursuant to the procedures set forth in MPEP § 821.04(B), and upon further consideration of the amendments put forth by the applicants, instant claim 16, which is directed to a process of making the said product (see examiner's amendments to the claims below), previously withdrawn from consideration as a result of a restriction requirement, are hereby **rejoined** and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action mailed on September 14th 2006 is hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claims including all the limitations of an allowable product claim or rejoined process claim are presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

In The Claims

Claim 32 is canceled by this Examiner's Amendment.

The amended and allowed claims 1-3, 6-15, 28-31 and 33 are as follows:

1. A moisture activated implant device for placement into a tooth extraction site or other bone defect and promoting bone growth in the bone defect, comprising:
a dry covering comprised of a water absorbing gelatinizable material that defines an enclosed space, wherein the dry covering consists essentially of oxidized cellulose; and
a bone growth promoting material, disposed within the enclosed space defined by the dry covering, selected from the group consisting of hydroxyapatite, beta-tricalcium phosphate, purified coral shell, freeze dried natural bone powder, freeze dried natural bone particles, demineralized natural bone powder, demineralized natural bone particles, demineralized natural bone shards, demineralized natural bone fragments, and combinations thereof,
wherein the dry covering encapsulates and retains the bone growth promoting material within the enclosed space prior to use and becomes gelatinous and adhesive upon contact with water so as to retain the bone growth promoting material within a tooth extraction site or other bone defect during use.

2. The implant device as recited in claim 1, wherein the implant device consists essentially of oxidized cellulose and the bone growth promoting material.

3. The implant device as recited in claim 1, wherein the water absorbing gelatinizable material is resorbable.

6. The implant device as recited in claim 1, wherein the implant device has an elongate sausage-like configuration.

7. The implant device as recited in claim 1, wherein the implant device has a pillow like configuration.

8. The implant device as recited in claim 1, further comprising moisture-resistant packaging within which the implant device is stored prior to use.

9. The implant device as recited in claim 1, wherein the implant device further comprises an adhesive dispersed with the bone growth promoting material for adhering the bone growth material together.

10. The implant device as recited in claim 9, wherein the adhesive comprises at least one of fibrin powder or chopped adhesive gauze.

11. A method of manufacturing the implant device for promoting bone growth according to claim 1, comprising:
forming the water absorbing gelatinizable material into a hollow tube or pouch;
inserting the bone growth promoting material into at least a portion of the tube or pouch; and
closing the open ends of the tube or pouch filled with the bone growth promoting material to form the implant device for promoting bone growth.

12. The method of manufacturing as recited in claim 11, wherein the act of closing the open ends of the tube or pouch comprises wet sealing and then drying the ends.

13. The method of manufacturing as recited in claim 11, wherein the tube or pouch is divided into a plurality of individual sections that are separated and individually sealed so as to form a plurality of implant devices from a single tube or pouch filled with the bone growth promoting material.

14. A method of promoting bone growth within a tooth extraction site or other bone defect, comprising:
providing the implant device recited in claim 1, the covering of the implant device being dry and initially non-adhesive; and
placing the implant device within a tooth extraction site or other bone defect; wherein the covering of the implant device becomes gelatinous and adhesive upon contact with water and retains the bone growth material within the tooth extraction site or other bone defect.

15. The method as defined in claim 14, wherein the implant device is placed into a bone defect resulting from the removal of a tooth.

28. A moisture activated implant device for placement into a tooth extraction site or other bone defect and promoting bone growth in the bone defect, comprising:
a dry covering comprised of a water absorbing gelatinizable material that defines an enclosed space, wherein the dry covering consists essentially of oxidized cellulose;
a bone growth promoting material in granule or powder form disposed within the enclosed space defined by the dry covering, wherein the bone growth promoting material comprises hydroxyapatite, beta-tricalcium phosphate, purified coral shell, natural bone, demineralized natural bone, or a combination thereof; and
a thickener dispersed among the bone growth promoting material, the thickener comprising a material that forms a viscous gel or firm putty upon contact with water, wherein the dry covering encapsulates and retains the bone growth promoting material within the enclosed space prior to use and becomes gelatinous and adhesive upon contact with water so as to retain the bone growth promoting material within a tooth extraction site or other bone defect during use.

29. The implant device as recited in claim 28, wherein the implant device consists essentially of oxidized cellulose, the bone growth promoting material, and the thickener.

30. The implant device as recited in claim 28, wherein the thickener comprises at least one of gelatinizable gauze, oxidized cellulose, oxidized regenerated cellulose, ground catgut, or powdered catgut.

31. The implant device as recited in claim 28, wherein the thickener comprises a biocompatible gelatinous collagen material.

33. The implant device as in recited in claim 28, wherein the dry covering is woven, knitted, or braided.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SATYENDRA K. SINGH whose telephone number is (571)272-8790. The examiner can normally be reached on 9-5MF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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